

Accordingly as regards costs of this application, the unsuccessful first and second defendants shall pay costs as if the application had been made by summons in chambers.

Order accordingly.

Solicitors:—*Triptipal Singh; Natha Singh & Subbiah; Rodyk & Davidson.*

CHOK KOK THONG v. THE MINISTER FOR HOME AFFAIRS & ORS.

[O.Cr.J. (Winslow J.) May 14, 1963]

[Singapore — Habeas Corpus No. 1 of 1963]

Habeas Corpus—Transfer of applicant to proper place of detention—Application for—Criminal Procedure Code (Cap. 132), ss.375, 383, 386.

Preservation of Public Security Ordinance, 1955, s. 3—Detention under—Validity of Order—Habeas Corpus for transfer to proper place of detention—Whether Court can intervene.

This was an application made under section 375 etc. of the Criminal Procedure Code and sought for a declaration that the solitary confinement of the applicant at the Central Police Station lock-up was improper and without any legal justification whatsoever. The applicant also asked for a writ of *habeas corpus* to be issued directing the proper detaining authorities to forthwith effect his removal to a proper place of detention.

Held: (1) the application was misconceived, because it did not comply with the procedure laid down by section 386 of the Criminal Procedure Code;

(2) as the detention Order was made in accordance with the provisions of section 3 of the Preservation of Public Security Ordinance the detention was lawful and cannot be attacked;

(3) there was no evidence to indicate that the applicant's conditions of detention were improper or oppressive as to require intervention by the Courts on an application under section 375 of the Criminal Procedure Code.

HABEAS CORPUS.

T. T. Rajah for the applicant.

Tan Boon Teik (Senior Crown Counsel) for the respondents.

Winslow J.: This application is made under section 375 etc. of the Criminal Procedure Code and asks for a declaration that the solitary confinement of the applicant, Chok Kok Thong, at the Central Police Station lock-up is improper and without any legal justification whatsoever. The applicant also asks for a Writ of *Habeas Corpus* to be issued directing the proper detaining authorities to forthwith effect his removal to a proper place of detention.

In my opinion this application is misconceived. Any application for the transfer of a prisoner from one custody to another must necessarily comply with the procedure laid down in section 386 of the Criminal Procedure Code.

A On such an application the High Court would be in a position to exercise its discretion under section 383 of that Code.

Mr. T. T. Rajah, Counsel for the applicant, sought to attack the legality of the detention by stating that the applicant was being illegally and improperly detained. I have carefully considered the complaints of illegal and improper detention made on behalf of the applicant and have come to the conclusion that more than sufficient cause has been shown to the contrary.

I see no merit in the contention, somewhat belatedly made, that the detention order made by the Minister for Home Affairs is bad in law. It was made in accordance with the provisions of section 3 of the Preservation of Public Security Ordinance, 1955 and speaks for itself. On the strength of that order, which has been exhibited, the detention is lawful and cannot be attacked. Nor is there any validity in the contention that the removal orders dated 8th March, 1963 and 4th May, 1963 are illegal, improper and not in accordance with the law.

As to the complaints of ill-treatment accorded to the detainee these have been denied and there is no evidence to indicate that his conditions of detention are improper or oppressive or such as to require intervention by the Courts on an application under section 375 of the Criminal Procedure Code inasmuch as I hold that the applicant is in lawful custody and cannot be considered to be improperly detained. Whether he will succeed on the present materials before the Court in any future application under section 383 is a matter for speculation.

The order *nisi* is accordingly discharged.

Order nisi discharged.

G SHAIK ALY SAHIB & ORS. v. M. I. & M. CORPORATION & ANOR.

[O.C.J. (Winslow J.) May 17, 1963]

[Singapore — Suit No. 1093 of 1959]

Trade marks—Infringement and passing off—Deceptive resemblance—Essential feature—Idea of a mark—Injunction—Trade Marks Ordinance (Cap. 185), ss.10, 14.

The plaintiffs for more than 20 years manufactured and sold vegetable oil and ghee for cooking purposes in tins bearing a distinctive label comprising a red flower with green leaves against a yellow background enclosed within a red circle. The trade mark was registered in 1952 in class 29 in respect of vegetable oil and ghee for cooking purposes.

In 1959 the defendants commenced selling vegetable oil and ghee for cooking purposes not of the plaintiffs' manufacture or merchandise in tins of similar proportions and weights with labels containing a representation of a red flower with green leaves against a yellow background.